

Connie Elkins McKelvey, OSB #831906
cmkelvey@lindsayhart.com

LINDSAY HART, LLP
1300 SW Fifth Avenue, Suite 3400
Portland, OR 97201
Telephone: (503) 226-7677
Facsimile: (503) 226-7697

Attorney for Kaiser Foundation Hospitals

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORLAND DIVISION

LAURA SNYDER,

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS, a California corporation, MEDTRONIC USA, INC., an active Minnesota corporation, PHILIPS NORTH AMERICA, LLC, an active foreign limited liability company, COVIDIEN HOLDING, INC., formerly known as COVIDIEN, INC., an active foreign limited liability company, COVIDIEN SALES, LLC, an active foreign limited liability company, and COFFEY MEDICAL, INC., an active Indiana corporation.

Defendants.

Case No. 3:18-cv-00332-YY

DEFENDANT KAISER FOUNDATION HOSPITALS' ANSWER AND AFFIRMATIVE DEFENSES

DEMAND FOR JURY TRIAL

In response to Plaintiff's Complaint, Defendant Kaiser Foundation Hospitals ("Kaiser") hereby admits, denies, and alleges as follows:

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1.

In response to paragraph 1, Kaiser admits that it is a California corporation doing business in the State of Oregon, including operating hospitals that provided medical services to patients, including Plaintiff Laura Snyder. Kaiser is without sufficient knowledge or information to otherwise admit or deny the remaining allegations of paragraph 1, and therefore denies the same.

2.

The allegations of paragraph 2 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 2, and therefore denies the same.

3.

The allegations of paragraph 3 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 3, and therefore denies the same.

4.

The allegations of paragraph 4 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 4, and therefore denies the same.

5.

The allegations of paragraph 5 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 5, and therefore denies the same.

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6.

The allegations of paragraph 6 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 6, and therefore denies the same.

7.

Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 7, and therefore denies the same.

8.

The allegations of paragraph 8 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 8, and therefore denies the same.

9.

The allegations of paragraph 9 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 9, and therefore denies the same.

10.

The allegations of paragraph 10 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 10, and therefore denies the same.

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11.

The allegations of paragraph 11 are not directed at Kaiser, and therefore, no response is required. To the extent a response is required, Kaiser is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 11, and therefore denies the same.

12.

Kaiser denies the allegations of paragraph 12, including all subparts.

13.

Kaiser denies the allegations of paragraph 13.

14.

Kaiser is without sufficient knowledge or information to admit or deny the allegations of paragraph 14, and therefore denies the same.

15.

Except as expressly admitted, Kaiser denies each and every allegation of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

Kaiser asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

16.

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

(Statute of Repose)

17.

Plaintiff's claims are barred by the statute of repose pursuant to ORS 30.905.

THIRD AFFIRMATIVE DEFENSE

(Statute of Limitations)

18.

Plaintiff's claims are barred by the applicable statutes of limitations.

FOURTH AFFIRMATIVE DEFENSE

(Comparative Negligence)

19.

Plaintiff's recovery is barred or, in the alternative, should be reduced by reason of Plaintiff's negligence and/or the negligence of third persons.

FIFTH AFFIRMATIVE DEFENSE

(Fault of Others)

20.

The injuries and/or damages allegedly sustained by Plaintiff, if any, were caused or contributed to be caused by third parties for whom Kaiser is not responsible and whom Kaiser has no right to control.

SIXTH AFFIRMATIVE DEFENSE

(Misuse)

21.

Plaintiff's alleged injuries and/or damages, if any, were caused by misuse, abuse and/or abnormal use of the product.

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SEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

22.

Plaintiff's damages are limited by her failure to reasonably mitigate damages.

EIGHTH AFFIRMATIVE DEFENSE

(Several Liability)

23.

Kaiser denies any liability to Plaintiff. However, if Kaiser is liable at all, Kaiser's liability is several only. Kaiser is not liable or responsible for the fault of any other party against whom recovery is sought, or for the fault of any person with whom Plaintiff has or will settle.

NINTH AFFIRMATIVE DEFENSE

(Reservation of Affirmative Defenses)

24.

Kaiser reserves the right to assert additional defenses that it may discover in the course of discovery and investigation of this matter and to which Kaiser may be entitled under the law, including case law, statutes and rules, of the jurisdictions whose law may be found to apply to the claims asserted.

WHEREFORE, Kaiser prays for judgment as follows:

1. That judgment enter in its favor and against Plaintiff;
2. That this Court award Kaiser any such other further relief as this Court deems just and proper.

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JURY DEMAND

Kaiser demands a trial by jury of all issues so triable.

Dated this 1st day of March, 2018.

LINDSAY HART, LLP

By: /s/ Connie Elkins McKelvey

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